PF 66 of 94

G. R. S. IX-5]

Previous references. 1894 95

~~192~~

(1 2

File No. 139 of 94

Serial Nos. 1 – 5

Later references.

GENERAL AND REVENUE SECRETARIAT.

Serial Nos. 1 – 5

Major **Part B for** April 1895

SUBJECT.

Appeal of Thimmappa regarding the Shanbhogi of Benkipur Sirsi, Shimoga Taluk

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Recommended

Indexed

WD 2233—GPB—20,000—14-6-20

Grounds of appeal

(1) 1st Respondent's Petition of
2nd Respondent's Petition in Cause
Nisi and the Answer of the Petitioner
in the Cause. Also the Judge's
Notes of the Evidence given
on the Trial of the Cause.

(2) Notice of the 1st Respondent's
2nd Respondent's Motion and
Affidavit in support thereof
for the Dismissal of the Petition
on the Petitioner's Petition

(3) Judge's Order and Notes of
Argument on the Petitioner's
Motion, that the Petitioner's
Petition be dismissed with
Costs - That the
Petitioner's Petition be dismissed
in all Respects, & that

(General Serial No. 32.)

No. [illegible]

Name of Petitioner.

Village.

Taluk.

District.

Date of Affd.

Date of Receipt.

Date of Disposal.

No. of Enclosures.

ABSTRACT.

Pet 796 5

27/11/94

MYSORE DEWAN'S OFFICE.

PETITION DEPARTMENT

(2)

OFFICIAL MEMORANDUM.

The accompanying Petition No. 1029

dated _____ received at the

Dewan's Office from on 19th Octr 1894 Shanbhog Immapp of Benkipur, Shimoga Taluq appealing against the decree, judgment and decree of the Dy Commr of Shimoga in Rev: app No 6 of 93/94 regarding the Sha of Benkipur Fixka

is forwarded, together with its two

enclosures, to the Deputy Commr Shimoga. Distt for submission of the entire records connected with the case

2 The Petn & enclosures should be returned

By Order,

Draft

Chief Secretary.

BANGALORE,
20 Novr 1894
27

19/11

M.G.C.P. Bangalore.—3-5-94.—1,000.

in the village accounts
like this.

(3) It was illegal to issue
granted ~~this~~ licence to
respondent as he was
than 12 years had
elapsed between the
Claim & before the
hearing & the Appellant
the Public Notice
ment
(4) Appellant was fined
his Case
(5) Respondent has no
Case.

7246
5 DEC. 94
Pol. 827

(3)

Gen. Serial No. 31.]

1894

LR 139-94-3

From The Deputy Commr.
Shimoga.

To Chief
The Secretary to the
Dewan of Mysore.

Dated 2 3 th
Despatched 3/12
Received
1 Enclosures

Enclosures—No. 4 with record and index and 5 duplicate dockets.

General No. 469
No. 363

With reference to
3rd cl. memorandum
No. Pet. 796 dated 20th Instt
returns the petition
with enclosures from
Shanbhog Thimmappa
of Benkipura and
forwards the entire
records connected
with the case.

Petition Pet Shanbhog
Note 3 Thimmappa
Pol 5/12/94

Bring up when posting
the Petitioners receipt
should be
received should be
very carefully examined
and a report made whether
they tally with the Jemadar

21/5/12

Vide draft

SKR
18/12

with the Revenue appeal
No 6 referred to, together with
the accompanying records
in R.A. No 1 of 1892-93 on
the file of the 1st Assistant
Commissioner Shimoga,
Plaintiff Shanbhog Shimoga
of Beekipur &c Thimmakka
and another.

2. The enclosures of the
memorandum under
reference are herewith
returned.

M Krishnaiengar
for Deputy Commr
Shimoga dt

1894

From

The Deputy Commissioner
Shimoga District

To

The Chief Secretary to the
Dewan of Mysore

Dated 29th }
Recd 3/12 } November

No. 469/363 Enc: Ens is written on
5 separate packets

With reference to his
official memorandum
dated 20th instant Ens 796/
Pet.
requesting to forward the
records connected with
the Revenue appeal case
No 6 of 1893-94, on the
file of this Court, I have
the honor to forward
the entire records connected
with

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In the Court of
the Civil Judge
Shimoga

Civ. Suit No 17 of 92-93

Plaintiff – Shanbhag Shivarapp
bin Venkat Rao, residing at
Bankipur, Shimoga Taluk
represented by Mr Seshagiri
Rao, Pleader

Defts – 1 Veerabhadrappa, son of
Ontappa of Bankipur
by Mr Shivarudrappa, pleader
2 Sarvati (minor) son
of Ramappa, (dead) his
mother Gurivamma
Supplemental Defts

Judgment

The Plaint is as follows: —
That the lands of the Shanbhogi of
Bankipur Taka, comprising
of the two villages of Bankipur
and Jeppalapp, in the Shimoga
Taluk belonged to the Plaintiff's
family, that Plaintiff's ancestors
and the Plaintiff, enjoyed the
Office till the end of December
1889.

Samappa was
~~Basappa~~ died, his name Sriamu
~~Basappa~~ was made Supplemental
defendant as desired by plaintiffs.

2. The 1st Defendant produced
the records and accounts. The following
facts are mentioned in them ——

(1) The 1st Defendants' father
was the original Kulkarni and
registered Shanbhog of all the
villages of the Benkapur Taluka. He,
with the assistance of the members
of Shanbhog Gumasta Subbarayas
family, performed the duties of the
Shanbhogi Office till the time of
2nd Defendants' grandfather, that is
the 66-67. when he died. Benkapur
Taluka ~~Basappa~~ Sagarappa
Comprises of 40 villages including
Benkapur and Seggaji.

(2) Though it is evident from the
registers, that Plaintiffs' ancestors
and ~~Sagarappa~~ bought the Shanbhogi
Office from the Nadagir family
of Halebennur, and got the
Office registered in their names,
the Plaintiffs ancestors possessed
no immobile in the Inaam

They have not discharged the duties
of the Shanbhogi office till the year '75
and have not drawn any salary whatever.
In the year '75 the Plaintiff began
to do the duties. As the Defendants
had attained the majority
and were able to look after the
work them, they, jointly with the Plaintiff,
did the duties of the Office till '78.
The allegation made in the plaint,
that the defendants never held
the Office is false.

(3) As it was rumoured that the
villages will be distributed to
the Shanbhogues accordingly to
their rank, the plaintiff, with bad
motive, did not allow the defendant
and Ramappa to do the work,
and kept with him all the records
belonging to the Shanbhogi

(4) As 1st Defendant & Ramappa
sued for the Office, it was decided
during the Dakka Bakeji of 1886,
that the above fractions they must be
given the Shanbhogi of those
villages in which they possessed
Umbli lands accordingly to
Chief Commissioner's order of 1879.

and.

that Henry the Parish Police Settlement
of 1886, on the representation made
by the 1st and 2nd Respondents' husband
Ramappa, since deceased, they (the latter two)
were appointed jointly as Shanbhags,
notwithstanding the enjoyment of the
office by plaintiffs family from
time immemorial and without any
breach, that thereupon plaintiffs filed
a mamul Dewani suit (No.) regarding
the above nomination, the suit was
dismissed of in a summary way against
plaintiffs: that the defendants were
never in the enjoyment of the office
and did not hold it for any
length of time; that the Enclosure had
belonged to the plaintiffs, that the
right to the office might be established
in plaintiffs favour, and the office
handed over to him; and that the
cost incurred by the Plaintiffs should
be ordered to be given to him.

The cause of action arose
in January 1890.

After the plaint was filed,
as it was reported that 2nd Defdt
Ramappa

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and afterwards, gave Key Nare
put in possession of the Affn.
As Plaintiff preferred an appeal
to Govt. against the appointment, it was
decided by Govt. that the order passed
by the Patgi Settlement officer
was according to law and satisfactory
of the Inam that came to Mun
during the settlement, Pendhari
Inam, which is
Inam, the dispute, was registered
in the names of the 1st defendant
and 2nd defendants father Ramappa
Gowda, in the Patgi settlement
and since 15th July 1888 they have
been enjoying the affn as Inamdars.

Plaintiff, knowing that the
defendants are going to file a
regular suit for 2/3 of the village
included in the Mayani to which
they have a right, has brought
this suit with some bad intention.

The 1st defendant states that
for the above reasons the plaintiff's
suit is untenable and that
the cost incurred by him may
be given to him and that the
plaintiff's suit must be dismissed

3 The 2nd Defendant Lakshamma states that she has nothing more to say; that what the 1st Def. has deposed may be considered to be her own and the case proceeded on.

14

4 The following issues were framed:-

(1) Has the Shanbhogi of the village in dispute hereditary to the Plaintiff or to the Defts?

(2) When and for what reason was the Plaintiff deprived of the kale?

(3) Has the Plaintiff any right to question the order passed by the Patel Officer in 1886 and approved by Government?

(4) To what relief is Plaintiff entitled?

The following exhibits were filed (Plaintiff filed 7 and Defendants 87 Exhibits)

7. In this case, the pleaders on both sides arranged the case without producing the necessary evidence. The chief dispute is in the Patel settlement held on 30th August 1886, the 3rd Contention

15

Assistant Commissioner decide
as per Chief Commissioner's ord

Pro. No. 1615/Q 56 2.17th May 1879. that
1st defendant Virupakshappa and
2nd defendants husband Ramappa
should hold the Office each for
five years in rotation. As
Plaintiff was not satisfied with
the above decision, he appealed
to the Deputy Commissioner
on 26th August 1887. Mr. Madhava
Rao, Deputy Commissioner
confirmed the order passed by the
Settlement Officer. On August 1889. Govt
dismissed the appeal preferred by
Plaintiff against the order of the
Deputy Commissioner During
the latter part of December of the
year, the Shanbhags of the villages
were put in possession of the
respective shanbhags according
to decision of the Rent Settlement
Officer. The Plaintiff now
prays that the Shanbhagi of
Bantipura and Segebage, which
is in dispute, should be taken
back from the Defendants

It is clear that a gumasta was looking after the work of the Mayani till the year 1874.

Ex 26 & 36-38

From the exhibits filed by the defts it is ~~plaintiff~~ evident that the Pahani accounts and Pattas are in the writing of Shamia, father uncle of the 2nd defendant and also he of writes for the marks made by the ryots and Patel.

mechanical Pahani accounts

The exhibits 27 to 33 are written by Shamia's son Khandu Row. It is clear from the exhibits ~~filed~~ mentioned above that both father and son were writing the accounts.

The Plaintiff's 1st witness Hanumantha Row has deposed that exhibits nos 39 to 45 and 47 to 49 are in the writings of 1st defendant Puttappa. The 1st defendant has produced the following exhibits to show that Puttappa and Shamappa discharged the functions of

of the Office

Exhibit 60 & 61. Letters written by Plaintiff & 1st Defendant.

Exhibit no 62: Bakipatti of 1878

exhibits nos. 64, 65, 66 and 67 are produced to show that the Defendants were holding the Office and enjoying the umbali lands previous to the year 1835.

The 1st defendant has also produced Exhibits 68 & 76 & 63 to prove that the Office was held by his ancestors formerly.

From these it can be inferred that the defendant and his ancestors were in the enjoyment of the Shanbhogi Office in dispute for a longer period than the plaintiff.

Formerly though the Plaintiff and the defendant were looking after the duties of the Office. as it was decided that the Office of the village Shanbhogi should be looked after by those who possess umbali lands in that village, & the case went up to the highest authority and there

and the office given to him.

The defendants contend that they are the hereditary Shanbhogs of the Kasba Pergunnah Sudda. The register of 1838-40 shows that Venkatarow was the Magani Shanbhog, and Subbia and Shamia, grandfathers of Shanbhogs, and that these were the hereditary. It is further stated that Gram Shanbhog Subbia was enjoying 6 varadas of inam lands, and Shamiah 5 and varahas of lands.

The plaintiff Gopalrao that neither the defendants nor his forefathers held the duties of the Magani: the inam lands were formerly Government Khanah lands which they (the Defts) acquired by transfer from another. And so the defendants have no right whatever.

The nature of the evidence adduced in this case do show who held the office since the beginning of the year 1835 &c.

Plaintiffs' 1st witness Hanmanthu Row states that neither Plaintiffs father nor his grandfather ~~died~~ not officiated as Shanbhog of the Magani and Plaintiff also admits this.

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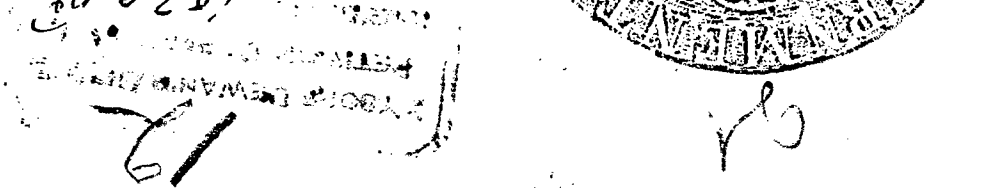
there it was decided in favour
of the defendants. As for the
point raised by plaintiffs, that the
defendant got the government
Karab lands entered as Mumbli lands
it was decided after enquiry that
the allegation made was groundless
The oral evidence of the witnesses
in this case should not be relied on
as it is evident that they are
under the control of the Plaintiffs.
The ~~records~~ documentary evidence
is the chief thing to be depended
upon. It is not proved ~~from~~
by documentary evidence that
Plaintiffs ancestors were in
the enjoyment of the Office
~~of Plaintiffs~~. As the defendants
were in the enjoyment of the
Office from time immemorial
and as during the Patapi Settlement
the Office was registered jointly
in the names of the defendants
as per Chief Commissioner's
proceedings, and as there is no
ground to interfere with the
decision, the Plaintiffs'

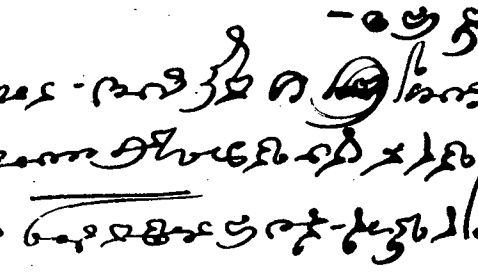
suit is dismissed —

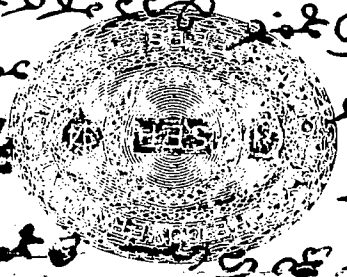
It is further decreed that
Plaintiff should bear his own
costs and pay the defendants
the costs incurred ~~by them~~ thereon.

(Sd) A Chichester
23/4/94 Asst. Comr.



MYSORE COURT FEE





12

2nd Appeal Cog 7 94 85 (6)

Appellant

Timmasiya

Respondents

LR. 139-94-14 Virupakshappa
& Gurupadamma

The Appellant was
the Manager Shanbog
of the Bankeri Fund
(Chinna Zalak) Consti-
tuting of 40 villages
including Bankeri
and Hegebage in
dispute, while the
1st Respondent and
the 2nd Respondent's husband
belonged to the
family of Grama
Shanbog of the said

Forks. In accordance
with the orders Contained
in the Lake Chief
Commissioners Proceedings
Vol 1615 of 17 May 1879
56
that Francis Shanbogs
should be appointed
Sole Shanbogs of such
villages in which
they enjoy umbilands
the officer who acted
the Police Lieutenant
of the Shimoga Taluk
in 1886 appointed the
1st Respondent and the
husband of the 2d.
respondent as Shanbogs
of the villages in question
as hereinbefore he was
satisfied that they
were in enjoyment

of the Crown lands
said this order has
affected by the Com-
and finally affirmed
by the Court of Appeal
1887 in their decision
in appeal 2628 J.
1887.

In 1892 Appellant
brought action for the
establishment of his
right in the offices
of the two relators
mainly on the grounds
that the Respondents
had not in the
disposition of the
Crown lands attached
to the offices at any
time and that none
of the members of the

family has performed
the duties appertaining
to the office. After
a prolonged enquiry
the Land Court
dismissed the suit
as he found that the
Respondents were actually
in possession of the
public lands and that
the members of their
family had performed
the duties of the office
for very many years
past. On appeal,
the decree of the Court
Commr was confirmed
by the Dy Commr. Hence
this second appeal is filed against the order of
the Dy Commr.

The Govt Pleader

No.

28

MYSORE DEWAN'S OFFICE,

PETITION DEPARTMENT,

The 189

Endorsement granted to Linnappa of Benkipur, Shimoga Taluk,

in reply to his Petition Registered No. 1029 dated received on 19 Dec 1894 appealing against ~~the judg~~ decree of the D. Comm, ~~Shimoga~~ dis allowing his claim to the Inamdari of Benkipur's keepage,

Petitioner is informed that his appeal has been dismissed

Enclosures are returned

LR. 139-96-5

mrd 10.4.95

'By Order'

11/4/95

Chief Secretary.

M.G.C.P.B—19-2-95—1,000

A. that there is ample evidence to support the concurrent findings of both the lower Courts

26

that members of the Respondent's family were [illegible] Grand Chambers; and it has been proved by oral and documentary evidence ~~and~~ that the Respondents' Mentors were performing the duties of the offices and occupying the lands attached thereto from a time long anterior to the date of the Voting Settlement. The appointment of the 1st Respondent and the 2nd Respondent's

Unclassified Use Therefore
proper - Plaintiff
has therefore rightly
brought this
dismissed in the
Courts below and
this appeal is dismissed
~~Consequently rejected~~

I round the smaller
is one which had
been already adju
-dicated upon
formerly by Sir
so long ago as 1807.

WRB
10/4/95

By order

11/4/95

Dy Chief

WRB
4

No. 1760/5
O.S. 80-94 dt 10-4-95
TR

Copy to the Dy. Commr
Shimoga District returning
the records received with
his Dis 46 C
363 dt 29-11-1894
312
579
448 dt 11-1-95